UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,138	03/08/2005	Friedrich Ackermann	21387 US-pd/d	9514

23690 7590 06/09/2010

ROCHE DIAGNOSTICS OPERATIONS INC.
9115 Hague Road
Indianapolis, IN 46250-0457

EXAMINER	
RUTKOWSKI, JEFFREY M	
ART UNIT	PAPER NUMBER
2473	

NOTIFICATION DATE	DELIVERY MODE
06/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

marsha.breen@roche.com
karla.dirks@roche.com
jackie.pike@roche.com

Office Action Summary	Application No.	Applicant(s)	
	10/527,138	ACKERMANN ET AL.	
	Examiner	Art Unit	
	JEFFREY M. RUTKOWSKI	2473	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *17-24* is/are allowed.

6)☒ Claim(s) *25-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-16 have been cancelled.

Priority

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Germany on 09/14/2002.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 25-31** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 13 of **claim 25** suggests a contact was interrupted. However, the phrase "...while the contact was interrupted" on lines 15-16 of **claim 25** seems to suggest the contact was restored but there is no previous recitation of the contact being restored. The Examiner suggests changing the phrase "…can be interrupted and restored again…" on line 6 of **claim 25** to "…is interrupted and restored again…"

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 25 and 28-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfe et al. (US Pat 5,204,669), hereinafter referred to as Dorfe, in view of Schoeberl et al. (US Pg Pub 2004/0090925), hereinafter referred to as Schoeberl.

6. For **claim 25**, Dorfe teaches at least one peripheral communicates with a programmable controller unit (central unit) to receive an address assignment via daisy chained control lines **18 [col. 5 lines 15-20, 50-60 and figure 1]** (a central unit which is contacted with several modules, wherein at least two of the modules are connected in series and the modules each comprise a memory to store module identification information). The control signals are transmitted over the control lines when an address needs to be assigned to a function module **16 [col. 6 lines 15-25]** (a switch which can be controlled by a computer unit in such a manner that the contact of a module to the central unit can be interrupted and restored again, wherein the computer unit comprises). The programmable controller unit **12** comprises a programmable controller (control unit to control the switch) **[figure 2]**. The controller uses information transported from the last function module to determine the address and the number of connected function modules **[col. 7 lines 30-34]** (a memory to register the module identification information of the modules).

7. Dorfe does not teach the calculation of topology information. Schoeberl discloses an architecture where after a network reset, which includes the addition or removal of nodes (interruption of a contact) **[0050]**, a current topology (module identification information registered while the contact was interrupted) is compared to a reference topology (module identification information registered before the interruption of a contact) **[0055]**. The comparison is used to determine which nodes were added or removed from the network **[0057]**. Since both Dorfe, in figure 1, and the IEEE-1394 standard support serial bus connections **[Schoeberl, 0003]**, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use Schoeberl's architecture in Dorfe's invention to allow Dorfe's architecture to support an IEEE-1394 architecture.

8. For **claim 28**, which depends from **claim 25**, Dorfe does not teach the use of type names. Schoeberl discloses a self-ID packet that includes a network-node number (wherein the module identification information comprise a type name to identify a module) **[0014]**. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use type names in Dorfe's invention to allow the network to be managed **[Schoeberl, 0014]**.

9. For **claims 29 and 31**, Dorfe teaches the program controller unit and the function modules are connected via lines **[figure 1]** (wherein the contact between a module and the central unit is via a line).

10. For **claim 30**, Dorfe teaches the programmable modules and the programmable controller are electrically interconnected **[col. 5 lines 32-35]** (wherein the modules are supplied with power from the central unit via a line).

11. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfe in view of Schoeberl as applied to **claim 25** above, and further in view of Koelzir (US Pg Pub 2004/0012249).

12. For **claim 26**, which depends from **claim 25**, the combination of Dorfe and Schoeberl do not disclose the use of a Controller Area Network (CAN). Koelzir discloses a Controller Area Network (CAN) arranged in a star topology **[0069]** (further comprising a CAN-bus). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a CAN bus in Dorfe's invention to allow for arbitration free transmission between nodes.

13. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfe in view of Schoeberl as applied to **claim 25** above, and further in view of Kodosky (US Pat 7,062,718).

14. For **claim 27**, which depends from **claim 25**, the combination of Dorfe and Schoeberl do not disclose the use of Transmission Control Protocol over Internet Protocol (TCP/IP). Kodosky discloses TCP/IP is used between two devices to transfer information **[col. 38 lines 60-65]** (wherein a TCP/IP is used as the protocol). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use TCP/IP as a communication protocol in Dorfe's invention to make use of a well-known standardized communication protocol.

Response to Arguments

The arguments with respect to Schoeberl not disclosing comparing identification information while the contact was interrupted are not persuasive. Schoeberl discloses the network comparison is carried out as soon as a network terminal is removed (contact interrupted; see paragraph 0055). In other words, the network reset occurs while a node is removed from the network (see paragraphs 0055-0056).

Allowable Subject Matter

15. **Claims 17-24** are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY M. RUTKOWSKI whose telephone number is (571)270-1215. The examiner can normally be reached on Monday - Friday 7:30-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey M Rutkowski/
Examiner, Art Unit 2473

/KWANG B. YAO/
Supervisory Patent Examiner, Art Unit 2473